

**PUBLIC SAFETY AND FIREFIGHTER TIER II
RETIREMENT ENHANCEMENTS**

2020 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies provisions relating to the New Public Safety and Firefighter Tier II Contributory Retirement System by amending certain retirement and death benefits.

Highlighted Provisions:

This bill:

- ▶ provides that a portion of the revenues collected from the tax on the admitted insurers shall annually be paid to the Utah State Retirement Office to fund certain benefit enhancements in the New Public Safety and Firefighter Tier II Retirement System;
- ▶ increases the percentage of compensation that a participating employer shall pay to the office on behalf of a member for the defined benefit portion of the New Public Safety and Firefighter Tier II Contributory Retirement System;
- ▶ increases the amount of the nonelective contribution made by a participating employer on behalf of each public safety service employee or fighter service employee who is a member of the New Public Safety and Firefighter Tier II Contributory Retirement System;
- ▶ amends the line-of-duty death benefits payable to the surviving spouse of an active member of the New Public Safety and Firefighter Tier II Contributory Retirement System; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-23-301 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 484

49-23-302 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 484

49-23-401 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 484

49-23-503, as last amended by Laws of Utah 2016, Chapter 84

ENACTS:

49-11-904, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **49-11-904** is enacted to read:

49-11-904. Insurance premium tax revenues -- Distribution.

(1) (a) In accordance with this section and for a fiscal year beginning on or after July 1, 2020, there shall be paid to the office an amount equal to the growth in the amount of net revenue deposited in the General Fund in the current fiscal year from the annual tax levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, after all transfers required by state statute have been made, that exceeds the amount of net revenue deposited in the General Fund in the 2015-16 fiscal year from the annual tax levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, after all transfers required by state statute have been made.

(b) Payments to the office shall be made annually.

(2) The office shall deposit the amount described in Subsection (1) into the New Public Safety and Firefighter Tier II Contributory Retirement Trust Fund created in Section 49-23-104.

(3) The money deposited under this section shall be used to fund:

(a) an increase to the multiplier for the calculation of the retirement allowance provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system effective July 1, 2020; and

(b) an increase in the defined contribution amount provided to a member of the New Public Safety and Firefighter Tier II defined contribution retirement system effective July 1, 2020.

Section 2. Section **49-23-301 (Effective 07/01/20)** is amended to read:

49-23-301 (Effective 07/01/20). Contributions.

(1) Participating employers and members shall pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).

(2) (a) A participating employer shall pay up to 14% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.

(b) A member shall only pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) A participating employer may elect to pay all or part of the required member contributions under Subsection (2)(b), in addition to the required participating employer contributions.

(4) (a) A member contribution is credited by the office to the account of the individual member.

(b) This amount, together with refund interest, is held in trust for the payment of benefits to the member or the member's beneficiaries.

(c) A member contribution is vested and nonforfeitable.

(5) (a) Each member is considered to consent to payroll deductions of member contributions.

(b) The payment of compensation less these payroll deductions is considered full payment for services rendered by the member.

(6) Except as provided under Subsection (7), benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:

(a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%; and

(b) may be decreased only in accordance with the provisions of Section 49-23-309.

(7) (a) The Legislature authorizes ~~[an increase]~~ increases to the death benefit provided to a Tier II public safety service employee or firefighter member's surviving spouse effective on

May 12, 2015, and July 1, 2020, as provided in Section 49-23-503.

(b) (i) The Legislature authorizes an increase to the multiplier for the calculation of the retirement allowance provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system effective July 1, 2020, as provided in Section 49-23-304.

(ii) The requirements of Section 49-22-310 do not apply to the benefit adjustment described in this Subsection (7)(b).

Section 3. Section **49-23-302 (Effective 07/01/20)** is amended to read:

49-23-302 (Effective 07/01/20). Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each public safety service employee or firefighter service employee who is a member of this system in an amount equal to ~~[14%]~~ 16.5% minus the contribution rate paid by the employer under Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total

125 years of service credit required for vesting.

126 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be
127 invested in a default option selected by the board until the member is vested in accordance with
128 Subsection (2)(a).

129 (b) A member may direct the investment of contributions made by a participating
130 employer under Subsection (1)(a) only after the contributions have vested in accordance with
131 Subsection (2)(a).

132 (c) A member may direct the investment of contributions made by the member under
133 Subsection (1)(b).

134 (4) No loans shall be available from contributions made by a participating employer
135 under Subsection (1)(a).

136 (5) No hardship distributions shall be available from contributions made by a
137 participating employer under Subsection (1)(a).

138 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment
139 with a participating employer prior to the vesting period described in Subsection (2)(a), all
140 contributions, including associated investment gains and losses, made by a participating
141 employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

142 (b) If a member who terminates employment with a participating employer prior to the
143 vesting period described in Subsection (2)(a) subsequently enters employment with the same or
144 another participating employer within 10 years of the termination date of the previous
145 employment:

146 (i) all contributions made by the previous participating employer on behalf of the
147 member, including associated investment gains and losses, shall be reinstated upon the
148 member's employment as a regular full-time employee; and

149 (ii) the length of time that the member worked with the previous employer shall be
150 included in determining whether the member has completed the vesting period under
151 Subsection (2)(a).

152 (c) The office shall establish a forfeiture account and shall specify the uses of the
153 forfeiture account, which may include an offset against administrative costs or employer
154 contributions made under this section.

155 (7) The office may request from any other qualified 401(k) plan under Subsection (1)

or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 4. Section **49-23-401 (Effective 07/01/20)** is amended to read:

49-23-401 (Effective 07/01/20). Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of [~~14%~~] 16.5% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the [~~14%~~] 16.5% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-23-203.

(d) (i) Years of service credit under Subsection (3)(a) includes any fraction of a year to

187 which the member may be entitled.

188 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of
189 one year of the total years required for vesting, the member shall be considered to have the total
190 years of service credit required for vesting.

191 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
192 invested in a default option selected by the board until the member is vested in accordance with
193 Subsection (3)(a).

194 (b) A member may direct the investment of contributions, including associated
195 investment gains and losses, made by a participating employer under Subsection (2)(a) only
196 after the contributions have vested in accordance with Subsection (3)(a).

197 (c) A member may direct the investment of contributions made by the member under
198 Subsection (3)(b).

199 (5) No loans shall be available from contributions made by a participating employer
200 under Subsection (2)(a).

201 (6) No hardship distributions shall be available from contributions made by a
202 participating employer under Subsection (2)(a).

203 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment
204 with a participating employer prior to the vesting period described in Subsection (3)(a), all
205 contributions made by a participating employer on behalf of the member under Subsection
206 (2)(a), including associated investment gains and losses are subject to forfeiture.

207 (b) If a member who terminates employment with a participating employer prior to the
208 vesting period described in Subsection (3)(a) subsequently enters employment with the same or
209 another participating employer within 10 years of the termination date of the previous
210 employment:

211 (i) all contributions made by the previous participating employer on behalf of the
212 member, including associated investment gains and losses, shall be reinstated upon the
213 member's employment as a regular full-time employee; and

214 (ii) the length of time that the member worked with the previous employer shall be
215 included in determining whether the member has completed the vesting period under
216 Subsection (3)(a).

217 (c) The office shall establish a forfeiture account and shall specify the uses of the

forfeiture account, which may include an offset against administrative costs of employer contributions made under this section.

(8) The office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 5. Section **49-23-503** is amended to read:

49-23-503. Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

(1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the surviving spouse shall receive:

(i) a lump sum equal to six months of the active member's final average salary; and

(ii) the greater of:

(A) an allowance equal to 30% of the member's final average monthly salary[.]; or

(B) an allowance equal to 2% of the member's final average monthly salary multiplied by the years of service credit accrued by the member.

(b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse shall receive the allowance that would have been payable to the member.

(2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.

(b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-23-102(13) to determine the

249 eligibility for this benefit.

250 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are
251 payable under this section and the surviving spouse is not eligible for benefits under Section
252 49-23-502.

253 (b) If the death is not classified as a line-of-duty death by the office, benefits are
254 payable in accordance with Section 49-23-502.

255 (4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall
256 apply in writing to the office.

257 (b) The allowance shall begin on the first day of the month following the month in
258 which the:

259 (i) member or participant died, if the application is received by the office within 90
260 days of the date of death of the member or participant; or

261 (ii) application is received by the office, if the application is received by the office
262 more than 90 days after the date of death of the member or participant.

263 Section 6. **Effective date.**

264 This bill takes effect on July 1, 2020.